

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1045

AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-6-2-91, AS AMENDED BY P.L.77-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 91. (a) "Operator", for purposes of IC 34-30-3, means a person who is an owner, a lessee, a tenant, or an occupant of land or premises that are used in the production of agricultural products.

(b) "Operator", for purposes of IC 34-31-6, means a person or an entity, other than a governmental entity or an employee of a governmental entity, that owns, manages, controls, directs, or has operational responsibility for a roller skating rink.

(c) "Operator", for purposes of IC 34-31-6.5, means an approved postsecondary educational institution (as defined in IC 21-7-13-6) that owns, manages, controls, directs, or has operational responsibility for an ice skating rink.

(d) "Operator", for purposes of IC 34-31-11.4, means an:

- (1) elementary school (as defined under IC 20-18-2-4);
- (2) approved secondary school (as defined under IC 21-12-1-5); or
- (3) approved postsecondary school (as defined under IC 21-7-13-6);

that owns, manages, controls, directs, or has operational

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responsibility for a recreational facility.

SECTION 2. IC 34-6-2-129.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.4. "Recreation", for purposes of IC 34-31-11.4, includes physical exercise, leisure, or sports.**

SECTION 3. IC 34-6-2-129.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.5. "Recreational facility", for purposes of IC 34-31-11.4, means a building, location, or area primarily designed and used for purposes of recreation. The term includes:**

- (1) a gymnasium;**
- (2) a park;**
- (3) a playground;**
- (4) a swimming pool;**
- (5) a fieldhouse;**
- (6) a beach;**
- (7) a stadium;**
- (8) a golf course;**
- (9) a campground;**
- (10) a boat launching site;**
- (11) an arboretum;**
- (12) a bicycle path;**
- (13) a bridle path;**
- (14) a community center;**
- (15) a bowling alley;**
- (16) a billiard hall;**
- (17) a court, field, or other area designated for sports; and**
- (18) any other building, location, or area specifically set aside for recreation.**

SECTION 4. IC 34-6-2-129.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.6. "Recreational user", for purposes of IC 34-31-11.4, means an authorized user of a recreational facility who is using the facility for the recreational purpose for which it was primarily designed. However, the term does not include a person participating in or attending an intercollegiate or interscholastic event.**

SECTION 5. IC 34-31-11.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 11.4. Limited Liability for Operators of Recreational



Facilities

Sec. 1. (a) This chapter applies only to a recreational facility that is operated by an:

- (1) elementary school (as defined under IC 20-18-2-4);**
- (2) approved secondary school (as defined under IC 21-12-1-5); or**
- (3) approved postsecondary school (as defined under IC 21-7-13-6).**

(b) This chapter does not apply to the operator of:

- (1) an ice skating rink that is described in IC 34-31-6.5; or**
- (2) a recreational facility with respect to an activity:**
 - (A) for which the recreational facility is not primarily designed (even if the recreational facility is designed to allow this activity); or**
 - (B) that is not recreation.**

Sec. 2. To qualify for limited liability under this chapter, an operator shall do all the following with respect to a recreational facility:

- (1) Post the:**
 - (A) duties of recreational users; and**
 - (B) duties, obligations, and liabilities of the operator;****as prescribed in this chapter in at least three (3) conspicuous locations in or along the recreational facility.**
- (2) Maintain the stability and legibility of all signs, symbols, and posted notices required by this chapter.**
- (3) This subdivision applies only to a recreational facility located in a building. When the recreational facility is open, at least one (1) floor supervisor must be on duty. A floor supervisor:**
 - (A) must have received appropriate training to carry out the floor supervisor's duties; and**
 - (B) must use reasonable care in carrying out the floor supervisor's duties.**
- (4) Maintain the floor or surface of the recreational facility in proper and reasonably safe condition.**
- (5) If the recreational facility is located in a building or includes a building, maintain in good and safe condition the areas of the building open to recreational users.**
- (6) Maintain equipment in good mechanical condition.**
- (7) Comply with all applicable state and local fire safety codes, building codes, and other safety codes applicable to a recreational facility.**



Sec. 3. A recreational user shall do all the following:

- (1) Maintain reasonable control of the recreational user's speed and course at all times.**
- (2) Use due care while operating or using equipment.**
- (3) Heed all posted signs and warnings.**
- (4) Maintain a proper view to avoid other recreational users, individuals, and objects.**
- (5) Accept the responsibility for the following:**
 - (A) Knowing the range of the recreational user's ability.**
 - (B) Using the recreational facility within the limits of the recreational user's ability.**
- (6) Refrain from acting in a manner that may cause or contribute to the injury of the recreational user or any other individual.**

Sec. 4. (a) Recreational users are considered to:

- (1) have knowledge of; and**
- (2) assume;**

the risks of using the recreational facility.

(b) For purposes of this chapter, risks of using a recreational facility include the following:

- (1) Injuries that result from collisions or incidental contact with other recreational users or other individuals who are properly present at the recreational facility.**
- (2) Injuries that result from falls caused by loss of balance.**
- (3) Injuries that involve objects or artificial structures that are not otherwise attributable to an operator's breach of the operator's duties or responsibilities under section 2 of this chapter.**
- (4) Injuries that result from the recreational user's violation of the recreational user's duties under section 3 of this chapter.**

Sec. 5. (a) Except as provided in subsection (b) and notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 4 of this chapter is a complete defense to an action against an operator by a recreational user for injuries and property damage resulting from the assumed risks.

(b) The following apply if an operator violates any of the operator's duties or responsibilities under section 2 of this chapter:

- (1) The complete defense against an action against an operator under subsection (a) does not apply.**
- (2) The provisions of IC 34-51-2-6 apply, unless IC 34-13-3 applies to the operator.**



(c) If IC 34-13-3 applies to an operator, the liability of the operator under section 2 of this chapter is subject to IC 34-13-3 and IC 34-51-2-2.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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